

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

FILED

NOV 08 2007

CATHY A. GATTERSON, CLERK  
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JOHN S. PANGELINAN,

Defendant - Appellant.

No. 07-16802

D.C. Nos. CV-07-00025-DAW

CR-06-00012-DAW

District of the Northern Mariana  
Islands

FILED  
Clerk  
District Court

ORDER

NOV 13 2007

Before: Peter L. Shaw, Appellate Commissioner.

For The Northern Mariana Islands  
By \_\_\_\_\_  
(Deputy Clerk)

The district court has not issued or declined to issue a certificate of appealability in this appeal, which appears to arise from the denial of petitioner's motion for relief from judgment pursuant to Fed. R. Civ. P. 60(b) in this habeas corpus proceeding. *See Lynch v. Blodgett*, 999 F.2d 401 (9th Cir. 1993) (certificate of probable cause to appeal necessary to appeal denial of post-judgment motion for relief under Rule 60(b)). Accordingly, pursuant to circuit court policy, this case is remanded to the district court for the limited purpose of granting or denying a certificate of appealability at the court's earliest convenience. *See* 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b); *United States v. Asrar*, 116 F.3d 1268, 1270 (9th Cir. 1997).

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07-16802

If the district court issues a certificate of appealability, the court should specify which issue or issues meet the required showing. *See* 28 U.S.C. § 1153(c)(3); *Asrar*, 116 F.3d at 1270. Under *Asrar*, if the district court declines to issue a certificate, the court should state its reasons why a certificate of appealability should not be granted, and the clerk of the district court shall forward to this court the record with the order denying the certificate. *See Asrar*, 116 F.3d 1270.

A new briefing schedule will be established after of the certificate of appealability issue is resolved. The Clerk shall serve this order directly on the district court judge by fax to chambers.

  
General Order 6.3(e)

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